

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF OKLAHOMA

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4 QUILL INK BOOKS LIMITED, a
foreign corporation, Case No.: CIV-18-920-G
5
6 Plaintiff,
v.
7 ABCD GRAPHICS AND DESIGN,
INC., d/b/a BLUSHING BOOKS
8 PUBLISHING, a foreign
corporation, et al.,
9
10 Defendants.

11 CONFIDENTIAL PORTIONS REDACTED
12
13 VIDEOTAPED DEPOSITION OF
14 RACHELLE SOTO a/k/a ADDISON CAIN
15
16 March 28, 2019
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18 10:06 a.m. - 4:43 p.m.
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21 Richmond, Virginia

22 HALASZ REPORTING & VIDEOCONFERENCE
23 1011 E. Main Street, Richmond, Virginia 23219
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1 Videotaped Deposition of RACHELLE SOTO
2 a/k/a ADDISON CAIN, taken and transcribed on behalf of
3 the Plaintiff, by and before Kimberly L. Ribaric,
4 Registered Professional Reporter, Certified Court
5 Reporter and Notary Public in and for the Commonwealth
6 of Virginia at large, pursuant to Federal Rules of
7 Civil Procedure Rule 45, and by Notice to Take
8 Depositions; commencing at 10:06 a.m., March 28, 2019,
9 at Kaufman & Canoles, 1021 East Cary Street, 1400 Two
10 James Center, Richmond, Virginia 23219.

11

12

13 APPEARANCES OF COUNSEL:

14

15 KAUFMAN & CANOLES
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17 Suite 2100
18 Norfolk, VA 23510
19 jmbredehoft@kaufcan.com
20 BY: JOHN BREDEHOFT, ESQUIRE
21 Counsel for Plaintiff

22

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24 P.O. Box 9470
25 Pueblo, Colorado
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CONFIDENTIAL PORTIONS MARKED

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E X H I B I T S

DEPOSITION

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1 A. Can you show me where the restroom is?

2 Q. Of course I can.

3 MR. BREDEHOFT: Off the record, please.

4 THE VIDEOGRAPHER: The time is 11:01.

5 (Recess taken at 11:01 a.m., proceedings
6 resumed at 11:10 a.m.)

7 THE VIDEOGRAPHER: Back on the record the
8 time is 11:10.

9 BY MR. BREDEHOFT:

10 Q. Before we went off the record, I was
11 attempting to ask a question and I was doing it very
12 unartfully, and I apologize.

13 Your book published by Blushing, okay, the
14 first of the books that we're talking about here, is
15 that fan fiction?

16 A. It is not fan fiction.

17 Q. And why is it not fan fiction?

18 A. To be a fan fiction, it has to exist in a
19 universe that you don't own. When I wrote the story,
20 I hardly used anything from that universe at the time.
21 I just used, like, a couple little things here. When
22 I rewrote the story, all of that was taken out,
23 characters were modified, scenes were rewritten. So
24 it is definitely not fan fiction.

25 Q. Let me see if this is a different question.

1 Is that book in the omegaverse?

2 A. That book is an omegaverse book.

3 Q. Are there aspects of the omegaverse that are
4 manifested in that book that constitute a reality or a
5 universe that you contend you own?

6 A. I don't own omegaverse.

7 Q. Is there any part of your first book which
8 creates a reality that you contend you do own?

9 A. I do not own omegaverse.

10 Q. I understand. That's not what I'm asking.

11 A. Okay.

12 Q. As I understood it -- and again I told you
13 there are places where I'm just not going to
14 understand --

15 A. Uh-huh.

16 Q. -- because I don't know that much about
17 fan fiction, I don't know that much about the
18 omegaverse.

19 As I understand it, it's not fan fiction
20 because it is not in a universe that you don't own.
21 Let me ask this question.

22 Do you own the universe that is depicted in
23 that first book?

24 A. Any -- a person who has published owns the
25 universe in their book. But the universe and

1 omegaverse are different things.

2 Q. Okay. My question should have been: What
3 are the differences between your universe and
4 omegaverse?

5 A. That's too broad of a question to answer,
6 because any author is going to have differences. You
7 take the omegaverse and you modify the meta to fit
8 your story. So there isn't one version of omegaverse
9 that I own. Again, nobody owns omegaverse. Just like
10 nobody owns vampires and nobody owns werewolves.

11 Q. But you do own the universe in which your
12 three books are set?

13 A. Yes. So if an author was to write a book
14 set into my universe, using my characters, that would
15 be a little bit of a difficulty there.

16 Q. Would that be fan fiction?

17 A. It could be, if they wanted to write
18 fan fiction and post it online for free. I'd actually
19 think that was really cool if people did that.

20 Q. I'm going to try to ask the question a
21 little better this time, and I don't mean to berate
22 it.

23 Are there plot elements or tropes in any of
24 your three omegaverse-published books which takes that
25 out of the universe that nobody owns and makes it into

1 the universe that you own?

2 MS. WATSON: Object to form.

3 THE WITNESS: I'm not really sure how to
4 answer that. It's a really broad question. And as
5 I've already said, I don't own omegaverse.

6 BY MR. BREDEHOFT:

7 Q. Right.

8 A. I own the books that are published, and I
9 have the copyrights for them, so it would fall under
10 what you would expect to be copyright. But I -- I
11 can't answer that because it's just a very vague,
12 broad question.

13 Q. Okay. Here's what I'm having trouble with.
14 You define fan fiction as something written in a
15 universe you don't own?

16 A. Yes.

17 Q. And we agree that nobody owns omegaverse?

18 A. Nobody owns omegaverse.

19 Q. And your three books are written in the
20 omegaverse universe?

21 A. Yes.

22 Q. Which is a universe you don't own?

23 A. I do not own omegaverse.

24 Q. But nonetheless, they are not fan fiction?

25 A. In answer to your question, that would be

1 like asking somebody if they had written a book about
2 vampires, such as Anne Rice, if she owned vampires.
3 She doesn't own vampires, she's just using vampires to
4 tell a story. Does that make sense?

5 Q. It may. It doesn't to me because -- you
6 know, but that's my failing.

7 Are there plot devices or specific elements
8 that you incorporate into any of your three works --
9 here's the question.

10 A. Uh-huh.

11 Q. What plot devices or elements, if any, that
12 you incorporate into any of your three published works
13 makes it your own universe?

14 MS. WATSON: Object to form.

15 THE WITNESS: That is extremely broad.

16 You'd have to read the books. And I'll give you a
17 copy if you want to.

18 BY MR. BREDEHOFT:

19 Q. No. I -- I bought them. I read them.

20 A. Did you?

21 Q. Oh, of course I read them.

22 A. All right. Sorry about that.

23 I can't really tell you -- I don't own
24 tropes and I don't own omegaverse. I own my plot, and
25 I own my -- my writing, and I own my story. But if

1 you want me to pick apart each part and explain to you
2 if I -- or -- or if you're trying to make it sound as
3 if I am claiming to own omegaverse, I don't own it.

4 Q. I'm not make -- trying to make it sound like
5 anything.

6 A. Okay.

7 Q. And I think that it's -- it's been very
8 clear you don't own omegaverse --

9 A. We don't own omegaverse.

10 Q. -- I don't own it, nobody owns it.

11 I'm just having problems with your
12 definition of what fan fiction is, and when you
13 combine that with a statement that your three books
14 are not fan fiction.

15 A. They are not fan fiction.

16 Q. Right. And -- do you see the problem I'm
17 having?

18 A. I think it's because you've never read
19 fan fiction and you're not familiar with it. And it's
20 going to be something I don't know if I could explain
21 to you, but maybe you should read some. They're fun,
22 especially if you're into comic books. So that might
23 be more helpful. I'm not really sure I can clear this
24 one up for you.

25 Q. Okay. I have read a couple thousand

1 fan fiction stories.

2 A. Okay.

3 Q. Especially those set in the -- if you're
4 familiar with it, the 1632 universe by Eric Flint.

5 A. I'm not familiar with it.

6 Q. Oh, you'd love it.

7 And I'll just try this one more time, then I
8 will drop it. And I'll preface the question with
9 this. I -- I am having a problem with what I perceive
10 as a logical inconsistency.

11 A. Okay.

12 Q. Okay. Your books are in the omegaverse.

13 A. Yes.

14 Q. We agree on that.

15 Nobody owns the omegaverse.

16 A. Exactly.

17 Q. Fan fiction is books that are set in a
18 universe you don't own.

19 A. Yes.

20 Q. But despite the fact that your books are set
21 in a universe that nobody owns, they're not
22 fan fiction?

23 A. Exactly.

24 MS. WATSON: I object to form.

25

1 BY MR. BREDEHOFT:

2 Q. And my question is: How can that be?

3 A. I think that you're missing part of the --
4 the thing here. You can write fan fiction, and you
5 can write omegaverse, and they don't have to be the
6 same thing. You can write fan fiction with vampires
7 in it, if you're using something as -- like "True
8 Blood" is a TV show, they'll have fan fiction.
9 They're using the characters from "True Blood," and
10 they're using the scenes from "True Blood," and
11 probably even lines directly from the TV show.

12 Q. I love Sookie.

13 A. Yeah. Who doesn't?

14 But then you can also write a novel with
15 vampires in it that has nothing to do with "True
16 Blood," and that's not fan fiction, but they're both
17 vampires.

18 So you can't just assume that anything
19 omegaverse is fan fiction.

20 Q. That, I understand.

21 A. Okay.

22 Q. But that makes me fail to understand your
23 definition of fan fiction as anything set in a
24 universe you don't own.

25 A. I think I'm failing to understand what

1 you're asking, and we might have a disconnect here.

2 Q. It won't be the first time. I'm not as dumb
3 as I look, but I'm really close.

4 Have you ever taken any classes or seminars
5 on writing?

6 A. No.

7 Q. Or publishing?

8 A. Classes or seminars on publishing?

9 Q. (Nods head up and down.)

10 A. I would say that I've been to some seminars
11 when I go to conferences.

12 Q. Have you ever taught any classes on writing?

13 A. I haven't taught any classes on writing.

14 Q. When you go to conferences, do you teach or
15 make presentations?

16 A. I have given a presentation on dark romance.

17 Q. Okay. Just one?

18 A. Just one.

19 Q. And when was that?

20 A. This was at Romantic Times last year.

21 Q. Where physically was that?

22 A. It was in Reno.

23 Q. Do you remember the time of year?

24 A. I'm going to guess that it was in May.

25 Q. Do you remember the sponsoring organization?

1 the complete second page, which is Bates 104, and goes
2 over to the top of page Bates 105; is that correct?

3 A. Yes.

4 Q. Okay. And then there are reviews. Did you
5 collect those reviews?

6 A. I don't recall.

7 Q. Who prepared the part of this document
8 before the bold title, Plot Similarities?

9 A. I have no idea.

10 Q. Okay. Have you seen it in this form?

11 A. Perhaps. I'm not -- I'm not entirely sure,
12 to be honest.

13 Q. Okay. "Born to be Bound" is -- takes place
14 on earth, right?

15 A. Yes.

16 Q. In the future?

17 A. It's in the dystopian future, in a dome.

18 Q. Dystopian future in a dome, the dome
19 eventually cracks and a virus gets in?

20 A. No -- well, yes, that does happen.

21 Q. Okay. And is there any magic in that world?

22 A. There is no magic in my world. It's all
23 science fiction.

24 Q. Okay. So we have future dystopian, science
25 fiction in a dome.

1 A. Yes.

2 Q. The Myth of omega, "Crave to Conquer," takes
3 place in an imaginary world; is that correct?

4 A. It looks like a fantasy world, yes.

5 Q. Right. You've looked at the maps on
6 MapQuest, you've read the book, and it's no place on
7 earth, right?

8 A. As far as I know, it's not -- I don't recall
9 maps, but I would assume that it's not on earth
10 because it's fantasy.

11 Q. Okay. Fantasy based on magic?

12 A. I don't -- wouldn't say the world is based
13 on magic. There's magic in the world.

14 Q. Okay. And magic is important to do anything
15 such as reducing esterase, correct?

16 A. I believe that's what happens in her book.

17 Q. Okay. Do you think that her use of magic to
18 get around the problem of esterase in an omega is
19 something that infringes on your book?

20 A. No. My issue with it was that she used beat
21 by beat in several parts of the book, beats from my
22 book in beats from her book.

23 Q. Okay.

24 A. It has nothing do with trope, and it has
25 nothing do with omegaverse.

1 Q. Okay. Again, exhibiting my ignorance in use
2 of the term "beat," I had understood that beat also
3 refers to where in the book, the first third, the
4 first quarter, the first half, where in the book
5 certain plot points develop; is that correct?

6 A. I'm not entirely sure it matters where in
7 the book. For example, for Zoey Ellis' book, the
8 first I want to say maybe to the 30-percent mark when
9 I was reading it, it was an original story. And then
10 her beats began matching my beats. And then there's a
11 small part where the beats don't match, and then again
12 the beats do match.

13 Q. Do you have any written analysis of the
14 beats?

15 A. No, I don't, actually, but if you had read
16 Golden Angel's blog post, she independently did her
17 own, and I thought that it did a great job summarizing
18 it.

19 Q. You have a rape in the first chapter?

20 A. It's dubious consent.

21 Q. Okay.

22 A. Uh-huh.

23 Q. Another term I'm not particularly up on.

24 And when does the first sexual contact take
25 place in the omega -- Myth of omega, "Crave to

1 Conquer"?

2 A. I couldn't tell you that off the top of my
3 head.

4 Q. Okay. In your book, the protagonist is a
5 rebel prisoner who's escaped and led a revolution,
6 right?

7 A. He is a man who's taken over the city and
8 leads an army.

9 Q. And was originally a prisoner, correct?

10 A. He was originally a prisoner.

11 Q. And he led the revolt?

12 A. He did lead the revolt.

13 Q. Okay. And in "Crave to Conquer," the
14 protagonist is a legitimate emperor, correct?

15 A. He is -- was originally, if I remember
16 correctly, a soldier who led men and took over a city,
17 and made himself the emperor. He didn't start out in
18 a royal line.

19 Q. Sure it wasn't his grandpa?

20 A. I -- actually, I'm not sure.

21 Q. And the level of the technology in the
22 "Crave to Conquer" book is essentially medieval, is
23 that correct?

24 A. The level of technology they're using
25 99 percent of the time in my story is pretty much

1 medieval too, which is doors. There's not a huge
2 sci-fi component that's discussed.

3 Q. You have guns, Zoey doesn't?

4 A. I don't -- I'm not even sure if there's
5 moments where there's guns in my -- there -- there
6 might be. But keep in mind, it's a dystopian future,
7 so in some ways it could be almost medieval, because
8 they have lost a lot of stuff as -- as the book goes
9 on. There's a lot of technology that doesn't work.
10 But there is no magic.

11 Q. And in your book, omegas are dying off,
12 correct? They're very rare?

13 A. They're being pretty much murdered by
14 alphas.

15 Q. Okay. And in Zoey's book, there are plenty
16 of omegas, they're just hiding, right?

17 A. There's not plenty, there's very few, if I
18 remember correctly, and they have a colony, because
19 the omegas that they don't find are getting murdered
20 by alphas.

21 Q. And do you have anyone that is analogous in
22 your book to the -- the mother of the omega colony in
23 Zoey's book?

24 A. Can you say what analogous means?

25 Q. The same as or similar to.

1 A. I have a character in my book named Nona,
2 who is kind of a matriarch of the omegas.

3 Q. And have you analyzed whether she is the
4 same as or similar to the -- the character of the
5 mother?

6 MS. WATSON: Object to form.

7 THE WITNESS: I honestly don't recall off
8 the top of my head.

9 BY MR. BREDEHOFT:

10 Q. Okay. Why, in your book, does the
11 protagonist want to give omegas to his soldiers?

12 A. To please them.

13 Q. Why, in Zoey's book, does the main
14 protagonist search for omegas to give to his solders?

15 A. To please them.

16 Q. Any other reason?

17 A. There's multiple reasons on both sides, but
18 I don't remember them all.

19 Q. Okay. Your omega, Claire --

20 A. Yes, her name is Claire.

21 Q. -- approaches the protagonist intentionally,
22 correct?

23 A. Yes.

24 Q. She seeks him out?

25 A. She does.

1 Q. And she's trying to get food, right?

2 A. Food for the omegas.

3 Q. Right. And in Zoey's book, Cailyn, the
4 omega, does not intentionally approach the
5 protagonist, right?

6 MS. WATSON: Object to form.

7 THE WITNESS: I -- I would have to look
8 over it again, but I believe that she does
9 intentionally, because she's spying.

10 BY MR. BREDEHOFT:

11 Q. Right. She's spying and she is disguised as
12 a beta, right?

13 A. So is Claire.

14 Q. Uh-huh. And why was she spying?

15 A. To help the omegas.

16 Q. Can you drill down to any more particular
17 level of generality?

18 A. I can't.

19 MS. WATSON: Object to form.

20 BY MR. BREDEHOFT:

21 Q. Both of them suppress their scent, one by
22 magic, one by drugs?

23 A. That would be correct.

24 Q. Okay. And when Claire -- well, Claire's
25 drugs fail, is that correct?

1 A. Claire is taking something that she thinks
2 is a heat suppressant, but it isn't.

3 Q. And why isn't it?

4 A. Because she was scammed by the person who
5 sold them to her.

6 Q. All right. And was that the protagonist?

7 A. The protagonist who sold them?

8 Q. Uh-huh.

9 A. He is just some side character.

10 Q. Okay. And why does the person Cailyn in
11 Zoey's book have a problem with her esterase being
12 exposed?

13 A. Why does she have a problem with it?

14 Q. Well, how does it occur?

15 A. If I remember correctly, and I would need to
16 read that part again, a third character set up some
17 kind of magical removing force field, and when she
18 walked through it, her esterase began to fail.

19 Q. Does Shepherd -- and Shepherd is your
20 protagonist, right?

21 A. Yes.

22 Q. Does he fight his instincts?

23 A. Does he fight his instincts? In which
24 scene?

25 Q. In any scene in the first book.

1 A. I mean, it -- you -- that would be open to
2 interpretation on what you think as -- when you're
3 reading the book. What I think he's doing, and what a
4 reader thinks that he's doing might be different.

5 Q. As you wrote it, is there any language in
6 the book that says in these words or similar, Shepherd
7 is fighting back his instinct and trying to not to
8 have sex?

9 A. I can't recall.

10 Q. Is there anywhere in your book where
11 Shepherd expresses regret for having had sex?

12 A. Yes.

13 Q. Where is that?

14 A. It's after he has sex with her where he
15 doesn't let her have an orgasm.

16 Q. Is there any place in Zoey's book where the
17 protagonist, Drocco, expresses regret about having
18 sex?

19 A. I don't recall.

20 Q. Your book is -- this is a writing term, so
21 make sure I get it right --

22 A. Uh-huh.

23 Q. -- third person, impersonal but not
24 omniscient?

25 A. Perhaps.

1 Q. Is it told -- who is it told by, the tale?

2 A. It's a third person.

3 Q. Okay. And what about Zoey's books?

4 A. I actually don't remember if hers are third
5 or first.

6 Q. There's reference in the documents, I won't
7 find it, to Zoey just changing the point of view. Do
8 you recall that she changed the point of view from
9 chapter to chapter?

10 A. It was specific scenes. And off the top of
11 my head, I wouldn't be able to tell what you they
12 were. If you want, we can get the books side by side
13 and do a read-through.

14 Q. I have.

15 A. Well, I mean we can together, and we can
16 discuss it, but --

17 Q. Nah.

18 Have you ever seen Errol Flynn's movie, "The
19 Sea Hawk"?

20 A. I don't think I have, I'm sorry.

21 Q. Okay. Is the idea that a protagonist will
22 lock his or her lover away so they can't escape, is
23 that something original to you?

24 A. Absolutely not.

25 Q. Okay.

1 A. No. That's called capture fantasy.

2 Q. Yeah. Happens all the time.

3 A. It's common, yes.

4 Q. Sure.

5 A. Because once again, this wasn't about the
6 tropes, it was about the beats.

7 Q. Now, when we get to the bottom of that
8 section that you wrote, which is on page 105, that's
9 all from the first book, right?

10 A. I believe so.

11 Q. But this asked to take down the first two
12 books, correct?

13 A. That's what it says on the top.

14 Q. Why was there no analysis of the second
15 book?

16 A. Since I didn't prepare these, I can't answer
17 that.

18 Q. When preparing the analysis, did you prepare
19 a similar analysis for the second book?

20 A. I honestly don't remember if I did.

21 Q. If you did, you would have given it to your
22 lawyers?

23 A. Yeah. I -- I think that perhaps -- I --
24 I -- I don't remember. So if there was a document,
25 she would have seen it.

1 Q. Okay. Who is your protagonist's true mate?

2 A. That would be Shepherd.

3 Q. Your protagonist is Shepherd.

4 A. Oh, yes. Claire.

5 Q. Okay. Who is Svana?

6 A. Svana?

7 Q. Svana.

8 A. Svana is the antagonist.

9 Q. Okay. And does Shepherd love Svana?

10 A. In the beginning of the book, he does.

11 Q. Is there a character analogous to Svana in
12 Zoey's book?

13 A. There is a hinting that he's going to cheat,
14 but no name is given.

15 Q. Okay. How does your three story arc end?

16 A. The -- the three story arc end. It ends
17 ambiguous, you don't really know what happens at the
18 end, you have to wait for the next book.

19 Q. Always a good thing, right?

20 A. Well...

21 Q. Well, let me put it this way. Is your omega
22 present at the end of the book?

23 A. In the very last scene?

24 Q. At the end of the book.

25 A. Is she -- I don't understand the question.

1 Q. Does she apparently die?

2 A. Well --

3 MS. WATSON: Which book are you talking
4 about, Counsel?

5 MR. BREDEHOFT: Huh?

6 MS. WATSON: Which book are you talking
7 about?

8 BY MR. BREDEHOFT:

9 Q. Oh, I'm sorry. I meant the end of the --
10 the three book arc.

11 A. The third book?

12 Q. Yeah.

13 A. That's open to interpretation. There is a
14 body left behind that they can't prove is her, which
15 was supposed to be a big hint that she's coming back
16 in the next book.

17 Q. Okay. How does Zoey's three book arc end?

18 A. I don't remember.

19 Q. Isn't it sort of happily ever after?

20 A. I -- I honestly don't remember.

21 Q. Okay. Wouldn't the ending and the
22 resolution of the conflict between the alpha and the
23 omega be an important beat?

24 A. Don't you think we should take into account
25 the fourth book, where they do begin to have their

1 happily ever after?

2 Q. When did you write the fourth book?

3 A. The fourth book came out -- I might -- I
4 might be wrong about this, but I think it came out in
5 2017. We could double check if someone wants to look
6 it up on Amazon real quick.

7 Q. To the best of your knowledge, do any of the
8 DMCA documents, either draft or prepared by you or
9 prepared by your publisher, mention the fourth book?

10 A. I don't know.

11 Q. When was the copyright for the fourth book
12 registered --

13 MS. WATSON: Object to form.

14 BY MR. BREDEHOFT:

15 Q. -- if it has been?

16 A. It's still in copyright process.

17 Q. And it's true, isn't it, that at the time
18 the DMCA notices were sent, you did not have a
19 registered copyright for any of the three books,
20 correct?

21 MS. WATSON: Object to form.

22 THE WITNESS: I honestly don't know.

23 MR. BREDEHOFT: Okay. Would you get me the
24 copyright registration thing? I think it's -- let
25 me have the --

1 someone else's book and paraphrase it, and if you use
2 repeated beats, then that would be plagiarism.

3 Q. How many beats are there, typically, in a
4 romance novel?

5 A. I couldn't answer that. It would depend on
6 the novel.

7 Q. Give me an example of some of the beats in
8 the first book of your trilogy.

9 A. Goodness. I don't know if I can do this off
10 the top of my head. Would you like to pull the books
11 out?

12 Q. No. I --

13 A. I didn't prepare anything like that, so I
14 don't really feel like I could comfortably talk about
15 it.

16 Q. Okay. Let me ask this question. What are
17 some of the beats in your first novel that are
18 replicated in Zoey's novel?

19 A. Again, I didn't prepare. I don't want to
20 speak out of hand on this. But if you would like me
21 to prepare a document that has what I think the beats
22 are from my book used in her book, I'm happy to do it.
23 But I'm not going to do that today off the top of my
24 head. I might misrepresent either side, and that
25 would be incorrect.

1 Q. Back in April of 2018, what did you believe
2 the correspondence in the beats to have been?

3 A. It would be pretty much the same as I'm
4 saying right now, I would have to sit down and look at
5 it. This was a long time ago.

6 Q. Can you give me an example in any genre, not
7 tied to a particular book, of a beat?

8 A. Well, you can't just say "a beat." You have
9 to look at the plot points and the beats in the plot.
10 So, I mean, you could say anything and call it a beat.
11 But if you're looking at an entire kind of
12 composition, then I could be: This is a beat, this is
13 a beat, this is a beat.

14 But I can't randomly say: Here is a beat.

15 Q. Okay. Tell me a well-known book that you're
16 familiar with, and try to give me what the beats are.
17 Do you know --

18 A. I don't -- I don't think I could do that off
19 the top of my head. That's something that would
20 require some thought.

21 Q. Do you know "A Christmas Carol" by Charles
22 Dickens?

23 A. Not well enough to give you the beats for
24 it.

25 Q. Are you familiar with Antony and Cleopatra

1 by Shakespeare?

2 A. No.

3 Q. Are you familiar with "A Midsummer Night's
4 Tale"?

5 A. Not well enough to give you the beats on it.

6 Q. Are you familiar with Anna Karenina?

7 A. I read it ages ago, but once again, not --
8 I -- I would need to read the book and mark the beats.
9 I don't want to misrepresent that. It would be
10 generalizing, and that would be wrong.

11 Q. Well, I'm asking you a general question.
12 I'm trying to figure out what you think a beat is.

13 A. I -- I understand you're asking a general
14 question, but I can't give you a general answer to
15 this question. I would really need to be able to
16 provide more information, and I would need to have two
17 books to compare, if you want me to compare beats
18 between the books, or I would need one book, and I
19 would need time to go through it. I'm not going to
20 just pull what I think beats are from the top of my
21 head.

22 Q. Well, you've obviously, I assume, performed
23 this analysis back in April of 2018 for the first
24 books of each series, right?

25 A. I didn't write it down as beats, and I could

1 go back and do that.

2 Q. I know I could. But you didn't, did you?

3 MS. WATSON: Object to form.

4 THE WITNESS: What I wrote is what you've
5 seen.

6 BY MR. BREDEHOFT:

7 Q. Okay. So there was no analysis of the beats
8 that underlie your statements in 2018?

9 A. Not that I'm aware of. Blushing may have
10 done that.

11 Q. Okay.

12 A. But at the same time, this could be
13 considered lots of the beats with the plot
14 similarities. But I think I could give you a
15 better -- a better representation if I was given some
16 time, if you would like it.

17 Q. A beat is that omegas are dying off from
18 attacks by alphas?

19 A. You know, like I said, I would have to have
20 them kind of in blocks, and then you could see them
21 that way, side by side.

22 Q. The protagonist doesn't understand why the
23 omega doesn't act obediently, is that a beat?

24 A. You're trying to make it sound like a trope,
25 when if it's used in a story, in both stories, it

1 would be similar beats, yes. Would you like me to
2 prepare a document like that for you?

3 Q. If you want to, go ahead, I don't care. But
4 I'm trying to figure out what you did prepare, and I'm
5 trying to understand, because you told me that this
6 document that we just went through could be beats.
7 Yeah.

8 A. When I go through them, I would reference
9 this, and then I would mark which one I think is a
10 beat.

11 Q. I'm not --

12 A. But off the top of my head, I can't say that
13 without having the books side by side.

14 Q. As a writer, are you sufficiently familiar
15 with any written work in the English language to tell
16 me what at least one of its beats is?

17 A. I don't really feel comfortable making that
18 without having the book in front of me and analyzing
19 it.

20 Q. Second page, Soto 000513: From one
21 side-by-side read-through. That's the spreadsheets we
22 were talking about.

23 Your third paragraph starts with, quote:
24 From one side-by-side read-through.

25 Is that the spreadsheets we were talking

1 about?

2 A. I honestly don't know. I -- I don't think
3 so.

4 Q. Okay. You wrote this, so tell me what you
5 meant.

6 A. I don't remember, to be honest. I don't
7 remember the dates of these things, so I can't comment
8 on that and be accurate.

9 Q. Did you do the side-by-side read-through?

10 A. For the spreadsheet?

11 Q. No. I -- I'm just asking about what you
12 meant when you used the words "from one side-by-side
13 read-through" so I can find it.

14 A. I am assuming that what I meant when I wrote
15 that was from one side-by-side read-through, I found
16 13 lifted lines that were paraphrased.

17 Q. Okay. That's not what it says here. It
18 doesn't say, "I found 13 sentences."

19 It just says "13 sentences were lifted."

20 Again, the passive voice is giving us
21 problems. And I'm trying to figure out, who did that
22 analysis?

23 A. I'm assuming that analysis was done by me.
24 And if I used the wrong language there, then I
25 apologize.

1 Q. There's no need to apologize, I just want to
2 know who did it.

3 A. I -- I'm assuming it was me, but I honestly
4 do not remember.

5 Q. Okay. If it was you, would you have been
6 likely to memorialize it in the document?

7 A. I believe that this probably is the document
8 that we're looking at, or I might have just read
9 through it. And it was hard for me to read them side
10 by side, honestly, because I felt very violated, and I
11 might have been just like, "All right, there's one,
12 there's one." I don't know if I wrote them down.

13 Q. Do you know what the 13 sentences are?

14 A. Off the top of my head, I do not.

15 Q. Well, I mean, you're giving sworn testimony
16 in a court case in federal court.

17 A. Yes.

18 Q. It's not off the top of your head.

19 Do you know what the 13 sentences are?

20 MS. WALKER: Object to form.

21 THE WITNESS: Once again, off the top of my
22 head, I don't have the 13 sentences memorized. I'm
23 sorry.

24 BY MR. BREDEHOFT:

25 Q. Do you know what any of them were?

1 A. I don't recall.

2 THE WITNESS: Do you mind if we take a
3 bathroom break?

4 MR. BREDEHOFT: Absolutely.

5 THE WITNESS: Okay.

6 THE VIDEOGRAPHER: Off the record, the time
7 is 3:01.

8 (Recess taken at 3:01 p.m., proceedings
9 resumed at 3:05 p.m.)

10 THE VIDEOGRAPHER: Back on the record, the
11 time is 3:05.

12 BY MR. BREDEHOFT:

13 Q. I'm still asking questions relating to
14 Exhibit 8, which is this tranche of e-mails, and I'm
15 now on page 000517.

16 Did the concept of writing a warning letter
17 to Zoey before filing the DMCA notices come up?

18 A. Ever between Blushing and myself?

19 Q. Sure.

20 A. I don't recall.

21 Q. Down at the bottom of that page, your
22 April 19th, 2018, right after midnight e-mail, the
23 third paragraph says: I would not write the author a
24 warning letter.

25 Why not?

1 CHANGES REQUESTED TO THE DEPOSITION OF:

2 RACHELLE SOTO a/k/a ADDISON CAIN

3 TAKEN: March 28, 2019

4

5

6 PAGE/LINE: DESCRIPTION

7

8

9

10

11

12

13

14

15

DATE: _____

16

SIGNATURE: _____

17

18 NOTARY PUBLIC: _____

19 MY COMMISSION EXPIRES: _____

20

21

22

23

24 REPORTED BY: Kimberly L. Ribaric, RPR, CCR

25

1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

2 I, Kimberly L. Ribaric, Registered Professional
3 Reporter, Certified Court Reporter and Notary Public
4 in and for the Commonwealth of Virginia at Large, and
5 whose commission expires August 31, 2020, do certify
6 that the aforementioned appeared before me, was sworn
7 by me, was thereupon examined by counsel, that review
8 was requested; and that the foregoing is a true,
9 correct, and full transcript of the testimony adduced.

10 I further certify that I am neither related to
11 nor associated with any counsel or party to this
12 proceeding, nor otherwise interested in the event
13 thereof.

14 Given under my hand and notarial seal at
15 Fluvanna County, Virginia, this 15th day of April
16 2019.

17

18

19

20 Kimberly L. Ribaric, RPR, CCR

21 Notary Public Registration No. 348266

22 Commonwealth of Virginia at Large

23

24

25

